HONOURABLE SRI JUSTICE GODA RAGHURAM

AND

HONOURABLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION Nos.9066 & 9101 OF 2006

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COMMON ORDER: *(per Hon'ble Sri Justice Goda Raghuram)*

Both these writ petitions go together and assail the notices issued by the Commercial Tax Officer, Vijayawada, calling upon the petitioner to pay the balance tax. The petitioner's resistance to the assessment order has been rejected by the Appellate Deputy Commissioner confirming the levy of tax to the extent of the disputed turnover.

The facts in Writ Petition No.9066 of 2006 are representative of the factual matrix in both the writ petitions and are recorded hereinafter.

The petitioner-a Limited Company, engaged in the business of manufacturing and marketing of refined rice bran oil by solvent extraction process, is an assessee on the rolls of the first respondent. By proceedings, dated 21.03.2005, the assessment was made under the Central Sales Tax Act for the assessment year 2003-04 and the gross and net turnovers were determined at Rs.14,90,13,989/- and Rs.13,27,08,677/- respectively, and the tax liability of the petitioner was determined at Rs.76,61,541/-. Aggrieved thereby, the petitioner preferred an appeal to the Appellate Deputy Commissioner, Vijayawada. The Appellate authority dismissed the appeal and the petitioner preferred a further appeal to the Sales Tax Appellate Tribunal along with a stay application. A garnishee notice was issued by the first respondent. The petitioner filed a writ petition, being W.P.No.22304 of 2005 and the same was disposed of by this Court directing payment of 50% of the disputed tax, while directing the Sales Tax Appellate Tribunal to dispose of the appeal within the

stipulated time. The conditional order of this Court, while disposing of the writ petition, has been complied with by the petitioner. However, the Sales Tax Appellate Tribunal by an order, dated 17.11.2005, partly allowed the petitioner's appeal, set aside the assessment and remanded a portion of the lis for *de novo* determination by the Assessing authority and dismissed the other part of the appellate relief sought for.

The petitioner's grievance is that the first respondent by the impugned notice, dated 09.03.2006, called upon him to pay the balance tax liability of Rs.3,13,961/-. The notice records that the Appellate Deputy Commissioner and the Sales Tax Appellate Tribunal have confirmed the orders of the Assessing authority to the extent of the disputed turnover of Rs.4,46,49,613/- and that the assessment order to the extent of the turnover of Rs.3,19,65,799/- was allowed and therefore, the tax liability of the petitioner to the extent of Rs.4,46,49,613/- stood confirmed all through, but subject to the T.R.C. to be preferred by the petitioner. The notice directs the petitioner to pay the balance tax liability, on the confirmed turnover of Rs.4,46,49,613/-, amounting to Rs.3,13,961/-. Neither on the quantum of the turnover as confirmed all through nor on the quantum of the tax liability on that account is there a dispute.

In these writ petitions, what the petitioner contends is that the Assessing authority has erred in reckoning the tax liability of the petitioner on the turnover of Rs.4,46,49,613/- and this error was carried through in appeal and also in the order of the final Appellate authority-Sales Tax Appellate Tribunal.

These are matters more appropriately determined in the T.R.C. and not in these writ petitions, which are merely directed against the notices, which decidedly do not suffer from any infirmity on the basis of the extant orders of the primary and appellate authorities.

There are no merits in the writ petitions which are accordingly, dismissed. No costs. The petitioner is granted three weeks time to pay the balance of the respective tax liability as per the notices

impugned in these writ petitions.

GODA RAGHURAM, J

02.05.2006

DR/VGB

M.VENKATESWARA REDDY, J